

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LONESTAR AIRPORT HOLDINGS, LLC,

Plaintiff,

v.

CITY OF AUSTIN, TEXAS,

Defendant.

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1:22-CV-770-RP

ORDER

Before the Court are two report and recommendations of United States Magistrate Judge Susan Hightower concerning Defendant City of Austin, Texas's ("City of Austin") Motion to Dismiss for Abstention, (Dkt. 29), and Motion to Dismiss First Amended Complaint, (Dkt. 43). (R. & R., Dkts. 47, 55). The City of Austin timely filed objections to each report and recommendation. (Objs., Dkts. 51, 61).

A party may serve and file specific, written objections to a magistrate judge's findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). Because the City of Austin timely objected to the report and recommendation on the abstention motion and to portions of the report and recommendation on the motion to dismiss, the Court reviews the report and recommendations *de novo*. Having done so, the Court overrules the City of Austin objections and adopts the report and recommendations as its own orders. When no objections are timely filed, a district court can review the magistrate's report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."). Neither party objected to portions of the report and

recommendation on the motion to dismiss. Because no party filed timely objections, the Court reviews those portions of the report and recommendation on the motion to dismiss for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the report and recommendations of United States Magistrate Judge Susan Hightower, (Dkts. 47, 55), are **ADOPTED**.

IT IS FURTHER ORDERED that the City of Austin's Motion to Dismiss for Abstention, (Dkt. 29), is **DENIED** and Motion to Dismiss First Amended Complaint, (Dkt. 43), is **GRANTED IN PART and DENIED IN PART**. Specifically, the Court **DENIES** the City of Austin's motion to dismiss as to Plaintiff's contract claims (Count IV). The Court otherwise **GRANTS** the motion to dismiss and **DISMISSES WITHOUT PREJUDICE** Plaintiff's takings claims (Counts I-III) and **DISMISSES WITH PREJUDICE** Plaintiff's promissory estoppel claims (Counts V-VI) pursuant to Rule 12(b)(1).

SIGNED on January 11, 2023.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE